


ORDINANCE 2016 - 06



ORIGINAL

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SUNNYSIDE, WASHINGTON,
REPEALING CHAPTER 12.46 OF THE SUNNYSIDE MUNICIPAL
CODE, PERTAINING TO “PARADES” AND
REPEALING CHAPTER 5.08 PERTAINING TO “BUSINESS LICENSES
FOR CIRCUSES, CARNIVALS, OUTDOOR MUSICAL ASSEMBLIES,
AMUSEMENTS AND SHOWS” AND
CREATING NEW CHAPTER 12.46 – “SPECIAL EVENT PERMITS”**

WHEREAS, city staff has been requested to review all applicable municipal codes and recommended changes where necessary; and

WHEREAS, Chapter 12.46 of the Sunnyside Municipal Code pertaining to parades has not been updated since 1991 and fails to address the variety of special events held within the city limits of Sunnyside; and

WHEREAS, Chapter 5.08 of the Sunnyside Municipal Code pertaining to “Business Licenses for Circuses, Carnivals, Outdoor Musical Assemblies, Amusements and Shows” is outdated and fails to address all special events; and

WHEREAS, the City Council finds and determines that Chapter 12.46 and Chapter 5.08 of the Sunnyside Municipal Code should be repealed in their entirety and replaced with a new Chapter 12.46 created to address Special Event Permits as set forth in Exhibit “A” attached hereto and incorporated herein by this reference; and

WHEREAS, the City Council finds and determines that such enactment is in the best interests of residents of the City of Sunnyside and will promote the general health, safety and welfare.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, as follows:

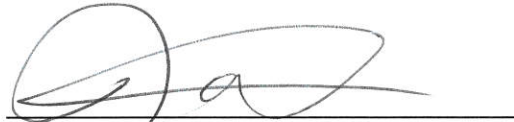
Section 1. Chapter 12.46 and Chapter 5.08 of the Sunnyside Municipal Code are hereby repealed in their entirety and replaced with a new Chapter 12.46 of the

Sunnyside Municipal Code as hereby created and set forth in Exhibit "A" attached hereto and incorporated herein by this reference.

Section 2. Except as amended herein, Title 12 Sunnyside Municipal Code and Title 5 Sunnyside Municipal shall remain unchanged.

Section 3. This Ordinance shall be effective five (5) days after passage, approval and publication as required by law.

PASSED this 27th day of June, 2016.


JAMES A. RESTUCCI, MAYOR

ATTEST:


DEBORAH ESTRADA, CMC, CITY CLERK

APPROVED AS TO FORM:


KERR LAW GROUP, PLLC
Attorneys for the City of Sunnyside

EXHIBIT A

SUNNYSIDE MUNICIPAL CODE

Chapter 12.46 SPECIAL EVENT PERMITS

Sections:

- 12.46.010 Purpose.
- 12.46.020 Policy.
- 12.46.030 Intent.
- 12.46.040 Definitions.
- 12.46.050 Permits required.
- 12.46.060 Offenses.
- 12.46.070 Infraction.
- 12.46.080 Permit application and fee.
- 12.46.090 Standards for issuance, denial or revocation of permit.
- 12.46.100 Notice of granting or denial.
- 12.46.110 Modification or revocation of permit – Emergency.
- 12.46.120 Hold harmless.
- 12.46.130 Adoption of procedures.
- 12.46.140 Liability.
- 12.46.150 Regulations.
- 12.46.160 Hours of Operation.

12.46.010 Purpose.

It is the purpose of this chapter to provide for the issuance of special event permits to regulate events on the public streets and public property of the city of Sunnyside in the interest of public health, safety and welfare; and to provide for fees, charges and procedures required to administer the permit process.

12.46.020 Policy.

It is the policy of the city, as implemented through this chapter and any procedures adopted hereunder, to recognize the substantial community benefits that result from special events. These events provide cultural enrichment, promote economic vitality, and enhance community identity and pride. They also may provide opportunities for family activities and funding for our community's nonprofit agencies. Partnerships between the city, event sponsors and the community are valuable in ensuring successful events.

The city recognizes that certain events, because they involve protected activities guaranteed under the Constitutions of the United States and the State of Washington, fall outside the scope of the ordinance codified in this chapter. The city will strive to accommodate special events. The city recognizes that events can be difficult to implement successfully and that the city requirements may represent a significant portion of an event's costs. When setting fees and conditions for events, the city will be sensitive to their impacts on the event's costs while balancing the city's obligation to protect public health and safety. It is the city's goal to have successful special events that enrich and enliven the community.

12.46.030 Intent.

It is the specific intent of this chapter and any procedures adopted hereunder to place the obligation of complying with the requirements of this chapter upon the applicant or sponsor, and no provision hereof is intended to impose any duty upon the city of Sunnyside or any of its officers, employees or agents. Nothing contained in this chapter or any procedures adopted hereunder is intended to be or shall be construed to create or form the basis for liability on the part of the city of Sunnyside, or its officers, employees or agents, for any injury or damage resulting from the failure of the applicant or sponsor to comply with the provisions hereof.

12.46.040 Definitions.

Whenever used in this chapter, the following words shall have the following meanings:

- A. "Applicant" means the authorized agent of the sponsor who completes the application and acts as primary contact for the special event.
- B. "Application" means a notice to stage a parade or special event submitted by an applicant which informs the city of a proposed event.
- C. "Block party" means an event involving the closure of a one block residential street, for no more than eight hours, ending no later than ten p.m., for the purpose of a neighborhood crime watch meeting or social activity primarily involving the residents in the immediate area.
- D. "Chief of Police" means the Chief of Police of the Sunnyside Police Department or his/her designee.
- E. "City Manager" means the City Manager of the city of Sunnyside or his/her designee.
- F. "Event participant(s)" means a person in attendance at an event, including spectators, vendors, event staff, city staff, and all others present for the purpose of the event.
- G. "Exempt closures or uses" means exempt from the provisions of this chapter, and includes:

1. Public or private street uses or closures related to construction activity or right-of-way improvements or maintenance, as authorized by the public works department;
2. Long-term uses of the public right-of-way between the curb and property line approved by permit issued by the development services department, such as, but not limited to, sidewalk restaurants; and
3. Short-term or long-term uses of the public right-of-way as approved by the development services department to support activities occurring primarily on adjacent private property, such as, but not limited to, furniture moving and building repairs.
4. Public ceremonies that require a street closure of less than one block.

H. "Fire Chief" means the fire chief of the Sunnyside Fire Department or his/her designee.

I. "Parade" means any march or procession consisting of people, animals, vehicles or combinations thereof, except funeral processions, upon any public street, sidewalk or alley, which affects the ordinary use of said public right(s)-of-way.

J. "Permit" means a parade, or a special event permit issued pursuant to this chapter.

K. "Private event" means an event which uses the public property for the purpose of monetary or personal gain by any person, partnership, group, organization, company or corporation or which is closed to the general public.

L. "Procedure" means a procedure adopted by the city administrative staff to implement this chapter, or to carry out other responsibilities as may be required by this chapter or by other codes, ordinances or resolutions of the city or other agencies.

M. "Public Works Director" means the director of the Sunnyside Public Works Department or his/her designee.

N. "Special event" means any activity of a temporary nature which affects the ordinary use of public rights-of-way, public parking lots, public parks, intersections, sidewalks or streets for a short duration of time, or which would significantly impact the need for city-provided emergency services such as police, fire or medical aid, for purposes which include, but are not limited to, parades, dances, sales in commercial zones, auctions, bike-a-thons, shows or exhibitions, filming/movie events, carnivals, circuses, fun runs, fairs and block parties.

O. "Special event zone" means all properties and public rights-of-way, including but not limited to parks, streets, sidewalks, alleyways, pathways, public and private properties, within the area designated and permitted for the special event.

P. "Sponsor" means the person or group responsible for the special event to be held.

12.46.050 Permits required.

It is unlawful for any person to conduct a parade upon any public street, sidewalk or alley, or to hold a special event, as defined herein, or to knowingly participate in any such parade or special event, with the exception of exempt closures or uses as defined herein, unless a permit has been granted as provided in this chapter. In addition to the above, any event which is proposed to include electrical or power-generated amplification of music must comply with the conditions set forth in SMC [9.34.060\(F\)](#).

12.46.060 Offenses.

A. It is unlawful for any person to knowingly join or participate in any parade or special event conducted in violation of any term of any permit granted by this chapter.

B. It is unlawful for any person to intentionally obstruct or interfere with the orderly progress or conduct of a parade or special event conducted by virtue of a permit issued pursuant to this section.

12.46.070 Infraction.

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this chapter shall be guilty of an infraction and shall be punished by a fine in accordance with Title 9 of the Sunnyside Municipal Code. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any of the mandatory requirements of this chapter is committed, continued or permitted by any such person, and such person shall be punished accordingly.

12.46.080 Permit application and fee.

Applications for a special-event permit shall be made in writing to the community development department at least 45 calendar days in advance of the date of such parade or special event, accompanied by the required nonrefundable application fee set forth in SMC 2.02; provided, however, that the City Manager, in his/her discretion, may reduce or waive such time limitation for any unexpected occasion or situation.

Application for the permit shall be made in writing on a form provided by the city of Sunnyside. The applicant shall further comply with the following:

A. No later than 14 calendar days before the event, the applicant shall file with the Community Development Department:

1. Evidence of liability insurance coverage naming the city of Sunnyside, its officers, employees and agents as additional insured parties and affording death, personal injury and property damage liability coverage in an amount determined by the City Manager. Additional endorsements for host liquor liability and/or products liability may be required, in the event food, beverages and/or alcoholic beverages are to be dispensed;
2. A statement signed by the applicant that the sponsor shall defend, indemnify and otherwise hold harmless the city of Sunnyside, its officers, employees and agents from any and all claims or liability arising from the city's grant of permission for, or the actual conduct of, the parade or special event; and
3. For a special event involving registered participation of persons involving physical effort, an agreement that each participant, as a condition of participation, will be required to waive any and all liability against the city of Sunnyside, its officers, agents and employees arising from the event, which agreement shall be in language approved by the city's legal counsel.
4. Security Deposit. Except for an application for a permit for a special event protected under the First and Fourteenth Amendments of the U.S. Constitution, and events solely sponsored by the city, each application for a special event permit shall be accompanied by a security deposit. For special events requiring the closure of public streets, the amount of the security deposit shall be one thousand dollars, based on the factors listed below. The city of Sunnyside shall consider the following factors when determining the amount of any security deposit for a special event. The security deposit shall be in an amount necessary and appropriate to defray costs of cleanup, repair and/or restoration based upon: (i) the number of persons expected to attend or participate in the event; (ii) the type or nature of the event; (iii) the number and type of vendors participating in the event; (iv) whether alcohol will be provided, served or consumed on the event venue; and (v) any other factor deemed relevant to determine the amount of deposit based upon reasonably foreseeable costs of cleanup, repair and/or restoration.

B. If alcoholic beverages are to be dispensed, evidence of a permit issued by the Washington State Liquor and Cannabis Board shall be presented to the city as set forth in SMC 5.58.

C. The applicant may be required to send a letter, with a copy to the city, to affected area businesses/residents notifying them that a permit has been issued for the event (including date(s), time(s) and location/route), such notice to take place a minimum of 15 days prior to the event.

D. The applicant shall provide such other information as deemed necessary to provide for the processing of the permit and public safety.

12.46.090 Standards for issuance, denial or revocation of permit.

A. Standards for Issuance of Permit. Subject to the provisions of this chapter, the Public Works Director shall issue a special event permit, to any applicant who complies with the requirements of this chapter, the issuance of which permit shall be conditioned upon the applicant's written agreement to comply with the terms of the permit and all other applicable laws.

The permit may include, among other provisions, reasonable terms or conditions as to the time, place and manner of the event; compliance with health and sanitary regulations, emergency services, and security. Additional permits may be required to meet the conditions established by the permit, and/or other city codes.

In order to accommodate other concurrent events, the rights of abutting owners and the needs of the public to use streets or parks, the conditions may include, but not be limited to, reasonable adjustments in the date, time, route or location of the proposed event; accommodations of pedestrian or vehicular traffic using the street; and limitations on the duration of the event.

The Public Works Director retains the right of denial based on the standards set forth in 12.46.090(D), the issuance of any permit for a unique or significant parade or special event. The Chief of Police and the Public Works Director are authorized to close streets, alleys and sidewalks as are reasonably necessary to accomplish the purpose of a special event but which would not endanger or unreasonably inconvenience the public.

B. Variances. Pursuant to a proper application being made for a special event permit, the Public Works Director, in consultation with the Chief of Police, may authorize the issuance of a permit which varies from the terms of the application pertaining to the time, place, line of march, duration, manner of using streets, alleys and sidewalks, and assembly and disassembly, as necessary because of traffic conditions, the physical condition of the proposed route of the parade or event site, or the prior issuance of a permit for a special event which may conflict with that for which application is made.

C. Waiver or Reduction of Required Insurance Limits. The City Manager may waive or determine the insurance requirements in Section 12.46.080(A) under the following conditions:

1. The applicant or an officer of the sponsoring nonprofit organization charging no admission fee for the event, signs a sworn statement that the event could not take place unless such insurance coverage was waived or reduced. The city may require that the statement include the name and address of an insurance agent or other source of insurance coverage contacted to determine insurance premium rates for insurance coverage; or
2. The applicant or an officer of the sponsoring nonprofit organization charging no admission fee for the event signs a sworn statement that insurance coverage and the limits required is impossible to obtain. The statement shall include the name and address of an insurance agent or other source of insurance coverage contacted.

D. Standards for Denial. The Public Works Director shall deny an application for a special event permit if:

1. Any applicant fails or refuses to comply with any provisions of this section or refuses to agree, to abide, or comply with all of the terms and conditions of the permit; or
2. The information in the application is found to be false or nonexistent in any material detail; or
3. The Chief of Police or Public Works Director finds that the special event will more probably than not unreasonably interfere with vehicle or pedestrian traffic flow; or
4. The Chief of Police or Public Works Director finds that the parade will more probably than not create an unmitigatable danger to vehicular or pedestrian traffic; or
5. The special event will cause irreconcilable interference with previously approved and/or scheduled construction, maintenance or other activities; or
6. The event would seriously inconvenience the general public's use of public property, services or facilities; or
7. There is not sufficient public safety personnel or other necessary city staff to accommodate the event so that it may occur in a reasonably safe manner; or
8. The event would endanger public safety or health; or
9. The event would be likely to cause significant damage to public property or facility; or
10. The event would engage in or encourage participants to engage in illegal acts.

E. Appeal of Application - Denial. If the special event permit application is denied, the applicant has (2) two business days to file an appeal to the City Manager. The application and appeal will be reviewed by the City Manager, and a decision will be made within (5) five days of the appeal submission date. The City Manager's decision may be appealed to City Council at its next regularly scheduled meeting.

F. Standard for Summary Revocation. The Chief of Police may summarily revoke a permit if, during the event, action on the part of the event participants or spectators results in a disturbance or behavior which presents a clear and present danger to the public health, safety or welfare. In such instance, the event may be immediately halted by the Chief of Police, and the Chief of Police shall take such further steps as are necessary in his/her discretion to ensure the safety of the event participants and spectators alike.

12.46.100 Notice of granting or denial.

Within 14 calendar days after an application has been made for a special event permit, the Public Works Director or his designee shall notify the applicant, of the granting of the permit and of any terms of the permit which may vary from the request of the application, or of the denial of such permit and the reasons therefor.

12.46.110 Modification or revocation of permit – Emergency.

Any permit for a special event issued pursuant to this section may be summarily revoked, or the terms thereof modified, by the City Manager at any time when by reason of disaster, public calamity, riot or other emergency, the Chief of Police or Public Works Director determines that the safety of the general public or special event participants require such modification or revocation. Prompt notice of such action modifying or revoking a permit shall be delivered in writing to the permittee by personal service or by certified mail with return receipt requested.

12.46.120 Hold harmless.

As a condition to the issuance of any permit under this chapter, applicant shall defend, indemnify and hold the City, its officers, officials, employees, and volunteers harmless from any and all claims, injuries, damages, losses or suits including attorney fees, arising out of or resulting from the acts, errors or omissions of the applicant or arising out of any use authorized by any such permit.

12.46.130 Adoption of procedures.

The city may prepare and adopt procedures for the purpose of implementing this chapter or to carry out other responsibilities as may be required by this chapter or other codes, ordinances of the city or other agencies.

12.46.140 Liability.

The city and employees charged with enforcement and administration of this chapter, acting for the city in good faith and without malice in the discharge of their duties shall not thereby render themselves liable personally for any damages which may accrue to persons or property as a result of any act required by or by reason of any act or omission in the discharge of such duties.

12.46.150 Regulations.

A. Location – Special Event Zone – Designation. All activities covered by this chapter shall be located only in commercial zones of the City or such other zones as permit similar or compatible activities. The Public Works Director shall designate the boundaries of the area in which the special event shall occur, which shall be the special event zone for that event. Upon designation of the special event zone and approval of the license for the special event, such special event zone shall be deemed to be private property for purposes of admittance and attendance of invitees of the applicant. Upon designation as a special event zone, the applicant shall have the right to grant admittance and permission to enter and remain within the designated special event zone to every person deemed by the applicant to be an invitee, and shall have the right to deny admittance or permission to any person to enter or remain upon such special event zone or participate in such special event.

B. Sanitary Facilities. The type and adequacy of the water supply, toilet, waste collection and washing facilities, and food and drink preparation, if applicable, shall be approved by the Yakima County District Health Department.

C. Applicable Fire Codes. The adequacy of fire protection devices and equipment shall be approved by the Fire Chief.

D. Police and Other Security. In reviewing each application, the Police Department shall determine the minimum number of City police officers and the number of hours for each officer to be in attendance at the event for the purpose of providing security.

12.46.160 Hours of operation.

Special events shall not be conducted between the hours of midnight and 9:00 a.m.